

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER JOSHUA LABRECK,

Plaintiff,

v.

Case Number 11-10155

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

U.S. DEPARTMENT OF TREASURY
and INTERNAL REVENUE SERVICE,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
DISMISSING COMPLAINT FOR FAILURE TO PROSECUTE, AND
DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AS MOOT**

Presently before the Court is the report issued on January 25, 2013 by Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b), recommending that this Court dismiss the plaintiff's complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and deny the defendants' motion for summary judgment as moot. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt. #83] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED** for failure to prosecute.

It is further **ORDERED** that the defendants' motion for summary judgment [dkt. #75] **DENIED AS MOOT.**

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 12, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 12, 2013.

s/Deborah R. Tofil
DEBORAH R. TOFIL